

# **Exhibit 6**

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

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**BLACK LOVE RESISTS IN THE RUST, et al.,**  
**individually and on behalf of a class of**  
**all others similarly situated,**

Plaintiffs,

vs.

1:18-cv-00719-CCR

**CITY OF BUFFALO, N.Y., et al.,**

Defendants.  
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**ORAL EXAMINATION OF KEVIN BRINKWORTH**

**APPEARING REMOTELY FROM**

**BUFFALO, NEW YORK**

Wednesday, March 16, 2022

9:08 a.m. - 4:43 p.m.

pursuant to notice

REPORTED BY:

Luanne K. Howe

APPEARING REMOTELY FROM CUYAHOGA COUNTY, OHIO

1 Q Did they include your work with the Strike Force and  
2 the Housing Unit?

3 A No.

4 Q And can you describe the command structure through  
5 which you supervised the Housing Unit and the Strike  
6 Force?

7 A There was a captain, two lieutenants, and there were  
8 two separate platoons too.

9 Q Okay. And was that for the Housing Unit?

10 A That was for Housing and Strike Force.

11 Q Okay. The captain was over both -- was the captain  
12 of both units?

13 A Initially I -- initially, I'm not certain. I'm not  
14 certain if there was a captain in Housing initially.  
15 There was one in Strike Force.

16 Q And it would have been the same individual?

17 A There was one captain assigned to that precinct, if  
18 you will, to that station house.

19 Q Okay. And then there were also in the Housing Unit  
20 and the Strike Force lieutenants who were underneath  
21 the captain?

22 A Yes.

23 Q And then officers who were underneath the

1                   And my question for you, Mr. Brinkworth, was  
2                   whether you're familiar with these maps.

3       A       I have seen them, yes.

4       Q       Were these maps that you worked with regularly in  
5                   your role as chief?

6       A       No.

7       Q       Were you personally involved in directing Strike  
8                   Force patrol locations?

9       A       No.

10      Q       Do you know what went into setting Strike Force  
11               patrol locations?

12      A       I don't.

13      Q       Were you aware on a daily basis of where the Strike  
14               Force was patrolling?

15      A       No.

16      Q       Were you aware that the Strike Force patrolled mostly  
17               in Black neighborhoods on the east side of Buffalo?

18      A       I knew there was a concentration on the east side,  
19               yes.

20      Q       And how did you know that there was a concentration  
21               on the east side?

22      A       I would receive reports at the end -- maybe I was  
23               told they were there. I'm not certain, but I knew

1           that there was a concentration.

2       Q       Would you say that it was common knowledge within the  
3           BPD that the Strike Force was concentrated on the  
4           east side of Buffalo?

5                       MR. POOLE:   Form.

6       A       Yes.

7       Q       Was that something that concerned you?

8       A       No, because there was some high crime areas.

9       Q       Are you familiar with COMPSTAT?

10      A       Yes.

11      Q       What was COMPSTAT?

12      A       It was a monthly reporting.  We would meet monthly;  
13           all the chiefs and division heads would meet monthly.  
14           It was kind of an information sharing process to talk  
15           about trends that might be happening in districts or  
16           throughout the city.

17      Q       You would typically attend COMPSTAT meetings?

18      A       Yes.

19      Q       Along with the other chiefs?

20      A       Yes.

21      Q       Did anybody below the level of chief attend COMPSTAT  
22           meetings?

23      A       There would be captains there.  There would be

1 identified as COB056249. It's actually an email  
2 chain, and it has to do -- I'll just let you read it.  
3 Let me know when you would like me to scroll down.

4 A Okay. Scroll down. You can scroll. Okay.

5 Q Looking at the email at the bottom of the page, it's  
6 Patrick Roberts to Laurie Fitzgerald, and it's  
7 copying you and Commissioner Derenda. It's dated  
8 April 21, 2013. And Captain Roberts is asking for  
9 additional plate readers, and he says, "I believe the  
10 readers would pay for themselves in about two weeks."

11 A Okay.

12 Q And he also says that there is a great deal of  
13 interest from the Housing Unit and the Strike Force  
14 Unit officers in having additional plate readers. So  
15 why would the Housing and Strike Force officers have  
16 a great deal of interest in additional plate readers?

17 MR. POOLE: Form.

18 A I can't speak for them.

19 Q Why do you think that Captain Roberts believed that  
20 the plate readers would pay for themselves in about  
21 two weeks?

22 MR. POOLE: Form.

23 A It's very possible because we'd be able -- they'd be

1           able to write more summonses.

2       Q     Plate readers also make it possible to impound more  
3           vehicles, correct?

4       A     Yes.

5                       MR. POOLE:   Form.

6       Q     Do you think it's appropriate for Captain Roberts to  
7           be considering whether the readers would pay for  
8           themselves through increased ticketing?

9                       MR. POOLE:   Form.

10      A     I don't know that that's necessarily in his  
11           wheelhouse, so to speak.

12      Q     And what do you mean by that, that it's not in his  
13           wheelhouse?

14      A     That I don't know that that's his -- that would be  
15           his area of concern.

16      Q     I will introduce as Brinkworth 16 a document  
17           identified as COB591726, and this is an email chain  
18           between you and David Wilcox. He was a Strike Force  
19           lieutenant, right?

20      A     Yes.

21      Q     And Captain Roberts was also involved in this chain.  
22           It's dated March 18, 2014. And I will give you a  
23           moment to read it.

1 A If you could push that up, please. Okay.

2 Q I'll direct you to the place in the email where  
3 Lieutenant Wilcox says "our unit impounds more cars  
4 and writes more summons (by a wide margin) than any  
5 district or unit in the city. Our single plate  
6 reader has been paid for many times over."

7 So here Lieutenant Wilcox appears to believe  
8 that Strike Force officers should get more plate  
9 readers because they can generate the revenue to pay  
10 for them. Would you agree with that?

11 MR. POOLE: Form.

12 A It appears that because they do so much work, they do  
13 write a lot of summonses, that it's needed. I can't  
14 speak to his -- go ahead.

15 Q You go. Please finish your answer.

16 A I can't speak to whether he has any insight into  
17 budget.

18 Q Would you agree that his email shows an awareness  
19 that his work writing summons and impounding vehicles  
20 generates revenue for the city?

21 A Yes.

22 MR. POOLE: Form.

23 Q And he also states that he needs additional plate



1 Q Were you aware of expectations for impounds on Strike  
2 Force officers?

3 A No.

4 Q Why do you think Lieutenant Wilcox said "less  
5 impounds equates to less revenue"?

6 MR. POOLE: Form.

7 A Well, if they're sent over to the Buffalo impound, I  
8 believe there's charges attendant to that including  
9 storage charges.

10 Q Do you understand Lieutenant Wilcox to be arguing  
11 that the Strike Force should be able to do more  
12 impounds so as to generate more revenue?

13 MR. POOLE: Form.

14 A It does appear to imply that.

15 Q I will introduce as Brinkworth 18 a document  
16 identified as COB040359, and this is another email  
17 from Lieutenant Wilcox that's dated March 8, 2014  
18 sent to Captain Roberts. And you can take a minute  
19 to read through it.

20 A Okay.

21 Q And Lieutenant Wilcox is complaining that there is no  
22 working plate reader in the Strike Force fleet at  
23 that time, right?

1 A Yes.

2 MR. POOLE: Form.

3 Q And he says that the Strike Force has impounded 3,300  
4 cars, creating hundreds of thousands of dollars,  
5 right?

6 A Yes.

7 Q Lieutenant Wilcox seems to -- well, scratch that.

8 Do you think that Lieutenant Wilcox seems to  
9 believe that his job in part is to bring in revenue  
10 for the city through vehicle impounds?

11 MR. POOLE: Form.

12 A I believe he believes his job is to impound cars, and  
13 the ancillary of that is it brings in revenue for the  
14 city.

15 Q Was it a commonly held belief among Strike Force and  
16 Housing Unit officers that their police work brought  
17 a financial benefit to the city?

18 MR. POOLE: Form.

19 A I can't speak for them.

20 Q Was that a subject that you ever spoke with Strike  
21 Force and Housing Unit officers about?

22 A No, I never spoke with them about revenue generation.

23 Q I will mark as Brinkworth 19 a document COB063327,

1 THE WITNESS: Sure.

2 MR. POOLE: Certainly.

3 Q I'll introduce as Brinkworth 20 a document that's  
4 been identified as COB053722. And this is an email  
5 from Patrick Roberts to Commissioner Derenda and  
6 you're copied on it, and the date is May 3, 2013.  
7 And I'll give you a minute to read it.

8 A Okay.

9 Q So in this email, Captain Roberts is boasting about  
10 the Housing and Strike Force statistics, right?

11 A Yes. He's laying them out, yes.

12 Q And he also says that a great reward would be an  
13 overtime detail, right?

14 A Yes, he does say that.

15 Q Why would overtime opportunities be viewed as a  
16 reward?

17 MR. POOLE: Form.

18 A Well, overtime provides more money in your paycheck.

19 Q Did officers get paid time and a half for overtime?

20 A Yes.

21 Q And some officers increased their salaries  
22 considerably by working overtime, didn't they?

23 A Yes.

1 MR. POOLE: Form.

2 Q And did working overtime also give opportunities --  
3 excuse me.

4 Did working overtime also give officers the  
5 opportunity to increase their pensions?

6 A Yes.

7 Q Did you see overtime opportunities as a reward for  
8 production?

9 A No.

10 Q Did you correct Captain Roberts' belief that overtime  
11 is a reward for production?

12 A I don't recall having that conversation.

13 Q Did you ever look into whether Captain Roberts was  
14 communicating down the chain of command that overtime  
15 was available as a reward for production?

16 A I did not hear that.

17 Q And did you look to see whether that was happening?

18 A No.

19 Q As chief, did you have a philosophy about how best to  
20 use overtime?

21 A I had little or no authority in that regard. I had  
22 no control over how overtime was meted out or how  
23 details were set up. That was not anything that I

1 MR. POOLE: Form.

2 A Racial bias?

3 Q Uh-huh.

4 A Similar. To look at the person, make an assumption  
5 based solely on his race.

6 Q Is there a difference between racial profiling and  
7 racial bias?

8 MR. POOLE: Form.

9 A Racial profiling seems to be an affirmative act.  
10 Bias might simply be implicit. You make an  
11 assumption.

12 Q If the officer has probable cause for a traffic stop,  
13 can that stop still be the result of racial  
14 profiling?

15 A If that person has a legitimate stop, has a  
16 legitimate reason?

17 Q Yes.

18 A I believe that if it's a legitimate reason, then you  
19 have the right to stop that person.

20 Q Even if the reason for the stop was at least in part  
21 related to the person's race?

22 A Not if it's based on race --

23 MR. POOLE: Form.

1 A -- but if he's violated a provision of the law, then  
2 he can stop him.

3 Q So your testimony is that if the stop is legitimately  
4 based on probable cause, then it can't be racial  
5 profiling?

6 MR. POOLE: Form.

7 A I'm not saying that. I'm saying that if it's a  
8 legitimate stop -- I can't speak to the intent of the  
9 officer. I can only speak to his actions regarding  
10 making that stop and the actual -- for the V&T issue.

11 Q Did you personally receive training from the BPD  
12 regarding racial profiling or racial bias?

13 MR. POOLE: Form.

14 A I don't recall.

15 Q Did you provide training to the Housing Unit or the  
16 Strike Force on racial profiling or racial bias?

17 A Not that I recall.

18 Q Did you ask Captain Roberts or Captain Serafini to  
19 provide such training?

20 A Not that I recall.

21 Q Did you ask for officers to receive such training  
22 from somebody else?

23 A Not that I recall. That would come through our

1 academy.

2 Q If an officer pulls somebody over for an  
3 investigatory stop, the officer doesn't have to write  
4 the person a ticket, right?

5 MR. POOLE: Form.

6 A No.

7 Q Whether and how many tickets to write is in the  
8 officer's discretion?

9 A Yes.

10 Q Does the BPD have any written policies to guide the  
11 officer's discretion in this area?

12 A I don't recall.

13 Q The Amended Complaint that was filed in this action  
14 alleges that from 2012 to 2019, drivers from  
15 predominantly Black zip codes were eight times as  
16 likely to be issued multiple tickets in a single stop  
17 than drivers from predominantly white zip codes. Do  
18 you have any reason to believe this allegation is  
19 incorrect?

20 MR. POOLE: Form.

21 A I don't have the stats in front of me, so I have no  
22 way to dispute it.

23 Q Can you explain the racial disparity in issuance of

1 multiple tickets?

2 A I can't.

3 MR. POOLE: Form.

4 Q Do you think that Black drivers commit more traffic  
5 violations than white drivers?

6 MR. POOLE: Form.

7 A I don't have the statistics on that. I don't know.

8 Q As chief, did you take any affirmative steps to learn  
9 whether your officers were engaging in racial  
10 profiling?

11 A No.

12 Q And did anybody within the BPD ever ask you to  
13 investigate whether your officers were engaging in  
14 racial profiling?

15 A No.

16 MS. WILNER: I just want to take a short  
17 break, maybe five minutes.

18 MR. POOLE: Okay.

19 (A recess was taken.)

20 BY MS. WILNER:

21 Q The Buffalo Police Department has an Internal Affairs  
22 Division, right?

23 A Yes.



1 pattern, you might be able to preempt some of their  
2 behaviors.

3 Q I'll mark as Brinkworth 37 a document identified as  
4 COB053645. And this is a three-page email chain  
5 regarding a complaint by Delwanda Garland.

6 A Okay.

7 Q And we can scroll down to the complaint. I'll let  
8 you read it. The date of the complaint was  
9 August 27, 2014.

10 A Okay.

11 Q And I'll let you finish.

12 A Okay.

13 Q So looking at this complaint, do you agree that Ms.  
14 Garland was initially stopped without any  
15 individualized suspicion as part of the process of  
16 going through the checkpoint?

17 MR. POOLE: Form.

18 A It sounds like she went through a checkpoint.

19 Q Correct. And I'm just -- I'm hoping that this is not  
20 a controversial point, but everybody who goes --  
21 passes through a checkpoint is stopped, right?  
22 They're under the --

23 A Yes.

1 Q Yes. And they're stopped without any individualized  
2 suspicion of wrongdoing?

3 A Correct.

4 Q But --

5 MR. POOLE: Form again. Sorry.

6 Q In order to pull a driver over for a secondary stop,  
7 the officer would have to have probable cause that  
8 the driver had committed a crime or a traffic  
9 violation, right?

10 A Yes. But in this instance, it appears that she was  
11 not cooperating. She said her vehicle information  
12 were all correct, so if I'm reading this correctly,  
13 she didn't provide that.

14 Q Are people driving in vehicles ordinarily required to  
15 stop and be stopped and answer questions from  
16 officers when they haven't committed any traffic  
17 violations?

18 MR. POOLE: Form.

19 A Well, this was a traffic checkpoint, so all the cars,  
20 all the officers -- all the motorists were stopped.

21 Q And so it's your testimony that when people are  
22 passing through a checkpoint, if an officer wants to  
23 pull them over to ask them more questions, that the

1 STATE OF OHIO )

2 COUNTY OF CUYAHOGA )

3 I, Luanne K. Howe, Notary Public, in and for the  
4 County of Cuyahoga, State of Ohio, do hereby certify:

5 That the witness whose testimony appears  
6 hereinbefore was, before the commencement of his testimony,  
7 duly sworn to testify the truth, the whole truth and nothing  
8 but the truth; that said testimony was taken remotely  
9 pursuant to notice at the time and place as herein set  
10 forth; that said testimony was taken down by me and  
11 thereafter transcribed into typewriting, and I hereby  
12 certify the foregoing transcript is a full, true and correct  
13 transcription of my shorthand notes so taken.

14 I further certify that I am neither counsel for  
15 nor related to any party to said action, nor in any way  
16 interested in the outcome thereof.

17 IN WITNESS WHEREOF, I have hereunto subscribed my  
18 name and affixed my seal this 22nd day of March, 2022.

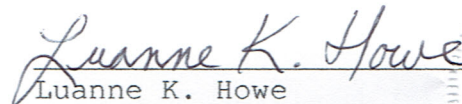
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Luanne K. Howe  
Notary Public - State of Ohio

My commission expires 10-07-24

